



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,

v.

HERNAN ANDREAS RIVERA-PEREZ,
Defendant.

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3:07-CR-0387-M(02)

ORDER REGARDING MOTION TO PROCEED IN FORMA PAUPERIS ON APPEAL

Before the court is Defendant's motion to proceed *in forma pauperis* on appeal filed December 22, 2015. Defendant appeals from the October 29, 2015 order denying his motion to reduce sentence under the 2014 Drug Guidelines Amendment.

Considering the record in this case and the recommendation of the Magistrate Judge, the Court hereby finds and orders:

() The motion for leave to proceed *in forma pauperis* on appeal is GRANTED. 28 U.S.C. § 1915.

(X) The motion for leave to proceed *in forma pauperis* on appeal (Doc. #309) is DENIED for the following reasons:

() The defendant/movant is not a pauper.

(X) Pursuant to 28 U.S.C. § 1915(a)(3) and FED. R. APP. P. 24(a)(3), the court certifies that the appeal is not taken in good faith. It was well within the Court's discretion to grant or deny a motion for reduction based on the 2014 Drug Guidelines Amendment. The Court exercised its discretion to deny the reduction in this instance. A further review of the record reflects that on October 16, 2015, only two weeks before entry of the order denying a reduction under the 2014 Drug Guidelines Amendment, the Court granted a substantial reduction based on the government's motion for a reduction of sentence. Based on the above, the Court finds that the appeal presents no legal points of arguable merit and is therefore frivolous.

Although this court has certified that the appeal is not taken in good faith under 28 U.S.C. § 1915(a)(3) and FED. R. APP. P. 24(a)(3), the defendant may challenge this finding by filing a separate motion to proceed in forma pauperis on appeal

with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of this order.

SO ORDERED this 22^d day of January, 2016.


UNITED STATES DISTRICT JUDGE